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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,856	02/10/2006	Masayuki Tsuchiya	053466-0412	5614
22428	7590	01/06/2009	EXAMINER	
FOLEY AND LARDNER LLP			DAHLE, CHUN WU	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW				
WASHINGTON, DC 20007			1644	
MAIL DATE		DELIVERY MODE		
01/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,856	<b>Applicant(s)</b> TSUCHIYA ET AL.
	<b>Examiner</b> CHUN DAHLE	<b>Art Unit</b> 1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08/13/2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 06/07/2008
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's election without traverse of Group I, drawn to a sugar chain-altered anti-HM1.24 antibody, filed on February 6, 2008, is acknowledged. Applicant's election of species "does not contain  $\alpha$ -1,6 core fucose", filed on August 13, 2008, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election of species (filed on August 13, 2008) has been treated as an election without traverse (MPEP § 818.03(a)).

2. Upon reconsideration, the restriction requirements have been withdrawn.

Claims 1-12 are pending and currently under consideration.

Claims 10-12 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 6, 2008.

3. Applicant's IDS, filed on June 7, 2006, has been considered.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kanda et al. (US Patent Application 2003/0115614, reference on PTO-892 mailed on January 9, 2008).

Kanda et al. teach sugar chain altered antibodies, such as monoclonal humanized anti-HM1.24 antibody (e.g. see paragraph [0595]), made from modified host cells including CHO cells and YB2/0 cells that produce antibodies with N-glycan structure having bisecting N-acetylglucosamine with reduced (30% or more fucose-free antibodies, e.g. see paragraph [0264]) or no fucose content (e.g. see paragraphs [0022]-[0184] and [0264]). Kanda et al. teach such antibodies exhibit enhanced ADCC effect (e.g. see Figure 6 and paragraph [0190]). Kanda et al. further teach said antibodies can be chimeric (e.g. see paragraph [0242]-[0246]).

Therefore, the reference teachings anticipate the claimed invention.

Art Unit: 1644

6. No claim is allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Dahle whose telephone number is 571-272-8142. The examiner can normally be reached on 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Eileen O'Hara can be reached 571-272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chun Dahle/  
Primary Examiner, Art Unit 1644